



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:	BOARD OF PROFESSIONAL LAND SURVEYORS
DATE AND TIME:	Thursday, August 16, 2012 at 8:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
APPROVED:	September 20, 2012

MEMBERS PRESENT

Michael Szymanski, Professional Member, Chair
James Bielicki, Jr., Professional Member, Vice Chair
Thomas Plummer, Professional Member
Laurence McBride, Professional Member
Mark Rosenthal, Public Member

DIVISION STAFF

Patricia Davis-Oliva, Deputy Attorney General
Sandra Wagner, Administrative Specialist III
Joseph Riff, Administrative Specialist II

MEMBERS ABSENT

Kenneth Monroe, Public Member
Mary Chvostal, Public Member, Secretary

PUBLIC

There were no members of the public in attendance.

CALL TO ORDER

Mr. Szymanski called the meeting to order at 8:30 a.m.

Review and Approval of Minutes

Mr. McBride made a motion, seconded by Mr. Rosenthal, to approve the June 21, 2012 minutes as amended. By unanimous vote, the motion carried.

Unfinished Business

Re-review of Mr. Stewart's application:

Mr. Bielicki reviewed the application for licensure by reciprocity for Mr. Tristan M. Stewart. After reviewing the documents submitted, Mr. Bielicki found that Mr. Stewart's application contained the

verification from the State of Maryland regarding his license which was previously overlooked and that Mr. Stewart had passed the Principles and Fundamentals exams. Mr. Bielicki made a motion, seconded by Mr. McBride, to approve the application for licensure by reciprocity and grant approval to sit for the Delaware Drainage & Jurisprudence Examination. By unanimous vote, the motion carried.

Review letter for Mr. Filippone – Audit

The Board requested Mr. Filippone provide a letter verifying the ethics course he had taken was not an online course but with an instructor. Mr. Filippone provided the Board a letter from the City of Baltimore Department of Human Resources indicating he attended a 13-week Supervisory Training Program. After discussion; Mr. Bielicki made a motion, seconded by Mr. McBride, to accept Mr. Filippone's course through the City of Baltimore to fulfill his ethics requirement. By unanimous vote, the motion carried.

NEW BUSINESS

Courses for Continuing Education Approval

Maryland Society of Surveyors

Mr. Plummer summarized the application for the Board. Mr. Plummer made a motion, seconded by Mr. McBride, to approve a total of 60 PDHs for the Maryland Society of Surveyors Conference and include 8 PDHs in Ethics. By unanimous vote, the motion carried.

Mr. Szymanski asked Ms. Wagner if the Board received the clarification from DAS for the 2 hours of ethics for the DAS 2012 conference. Ms. Wagner handed the clarification to the Board. After review, Mr. Plummer made a motion, seconded by Mr. Rosenthal to approve the 2 hours of ethics for the Delaware Association of Surveyors' 2012 Conference. By unanimous vote, the motion carried.

Review of Applications for Licensure by Examination

There were no applications for examination to review.

Review of Application for Licensure by Reciprocity

J. David Shula

Mr. Bielicki reviewed the application from Mr. J. David Shula. After discussion, Mr. Bielicki made a motion, seconded by Mr. Rosenthal, to approve Mr. Shula's application and grant approval to sit for the Delaware Drainage & Jurisprudence Examination. By unanimous vote, the motion carried.

Review of Application for Surveyor Intern

There were no applications for surveying interns to review.

Ratification of Issuance of Land Surveying Certificates of Authorization

First Order LLC

Mr. Bielicki made a motion, seconded by Mr. Rosenthal, to ratify the application of Certificate of Authorization for First Order LLC. By unanimous vote, the motion carried.

Discussion of Review of Exam – Failed Applicants

Ms. Davis-Oliva stated this is a regulation issue. If an applicant fails the exam they may come in and review the questions answered incorrectly. Ms Davis-Oliva advised that the Board may have to amend the regulation because the Division no longer proctors the exam. The regulation states that an applicant may review only the questions answered incorrectly and that no other materials will be allowed into the room when reviewing the exam. Additionally, there is a 30 minute time limit and the review is supervised by the Division of Professional Regulation. A fee will be determined by the Division of Professional Regulation and the applicant cannot review the exam within 90-days of the next exam. The applicant is limited to one review per exam. This pertains to the required Drainage

Examination/Delaware Law Examination. Ms. Davis-Oliva asked Ms. Wagner if the Division of Professional Regulation has the ability to allow the applicant to come in and review the questions answered incorrectly. Ms. Wagner said she would have to contact the exam company. Ms. Davis-Oliva recommended that the Board take action and find out if Regulation 6.2 can be complied with.

Review of Audit

There were no audits to review.

Complaint Assignments

There were no new complaints received in July.

Complaint Status

Mr. Szymanski reported that complaint 05-04-10 was forwarded to the Attorney General's office, complaint 05-06-10 has been scheduled for a hearing before the Board, and complaint 05-01-12 was assigned to Mr. Plummer.

Hearings/Consent Agreements/Board Orders/Recommendations

Recommendations from Hearing Officer

Mr. Rosenthal made a motion, seconded by Mr. Bielicki, to amend the agenda to add the consideration of the recommendations of the hearing officer in the matters of Joseph Filippone and Kenneth Schilling. By unanimous vote, the motion carried.

Mr. Rosenthal made a motion, seconded by Mr. Bielicki, to table the review of the Hearing Officer Recommendations for Joseph Filippone and Kenneth Schilling. By unanimous vote, the motion carried.

Closed Complaints

There were no closed complaints.

Wall Certificates

There were no wall certificates to sign.

Executive Discussion

There was no executive session for September.

Sign Order Regarding Repealing Written Renewals

Ms. Davis-Oliva explained that the current regulation states that every licensee applying for renewal shall attest that they have satisfied their CE requirements. The regulation states that attestation may be made electronically or in the alternative can be done on paper. The Division of Professional Regulation has asked that the regulation be amended to remove the acceptance of paper renewals. Mr. Plummer and Mr. Szymanski signed the order.

Review Bill Removing Written Test from Statute

Ms. Davis-Oliva stated she will submit this bill in January 2013. Based on information the Chairman brought back from the national meeting, they will no longer offer standardized national written exams after January 2014. Ms. Davis-Oliva recommended that the Board be proactive and remove the word "written" from the statute. Mr. Rosenthal made a motion, seconded by Mr. McBride, to remove "written" from the statute. By unanimous vote, the motion carried.

Review Bill and Regulations Addressing Inactive Status

Ms. Davis-Oliva discussed the Bill and Regulations addressing inactive status. All individuals licensed under Chapter 2711, *Issuance and Renewal of Licenses*, may be placed in an inactive status in accordance with the Board's rules and regulations. The renewal fee of such license shall be prorated according to the amount of time the license was inactive. Licensees may make a written request to reenter practice to the Board, demonstrating compliance with the Board's rules and regulations for reentry. Mr. Szymanski questioned whether inactive status also included retired status. He recommended mirroring Maryland's statute. Ms. Wagner stated this is something we would have to check with Susan Miccio about to see if we can do this. Ms. Davis-Oliva said she would speak to Ms. Miccio regarding this issue. Mr. Rosenthal made a motion, seconded by Mr. McBride, to table further discussion until next month. By unanimous vote, the motion carried.

The Board recessed at 10:04 and reconvened at 10:15.

Layout of Proposed Improvements

Mr. Szymanski read aloud a question received by the Division via email regarding an opportunity to layout FAA equipment at airports around the country. "Before I do, I am checking with each state to make sure that what I would perform does not violate any rules. Obviously, any work related to a boundary would be a violation. Is a land surveyor's license required in Delaware to perform this type of construction layout?"

Mr. Szymanski stated 24 Del.C. 2702 (5)b. states that the "practice of land surveying" includes "...the layout of proposed improvements ...". Therefore, in his opinion, a land surveyor must hold a valid license in order to perform construction layout in the State of Delaware. Additionally, by statute, unless a sole proprietor, a Certificate of Authorization is required.

The statute reads as follows:

b. The horizontal and vertical control for aerial surveys and photogrammetric compilation; Global Positioning System Surveying (GPS), as related to boundary surveying and as defined as determining the horizontal and vertical location of an object on the earth's surface with respect to the center of the earth by observing satellites with equipment capable of acquiring, analyzing and managing the data collected; polaris and solar observations for the determination of the true azimuth; the monumentation and remonumentation of boundaries of land, divisions of land, tracts, parcels and lots; the measurement and preparation of plans showing existing improvements after construction; the layout of proposed improvements and the preparation of descriptions and plans for use in legal instruments of conveyance of real property and property rights; and

Mr. Szymanski stated a semi-colon after "the layout of proposed improvements" may help clarify the statute. Perhaps this is a typographic omission. In his opinion, the statement between the semi-colons refers to two distinct services performed by professional land surveyors. One service is the "layout of proposed improvements" and the second service is the "preparation of descriptions and plans for use in legal instruments of conveyance of real property and property rights". To his knowledge, the layout of proposed improvements is not done for use in legal instruments of conveyance.

Ms. Davis-Oliva stated that the items between the semicolons must be read as one item as currently written. That is, a license is required for the layout of proposed improvements and the preparation of descriptions and plans **for use in legal instruments of conveyance of real property and property rights**. Thus, if someone is laying out proposed improvements or preparing descriptions or plans for any use other than legal instruments of conveyance of real property or property rights, they do not need a license. If there is no such thing as laying out proposed improvements or preparing descriptions or plans for conveyance of real property, then the Board will need a statutory change to address this. However, as currently written, Ms. Davis-Oliva does not believe a license is necessary if the work only

encompasses laying out proposed improvements, not for use in legal instruments of conveyance of real property and property rights.

Mr. Szymanski and Ms. Davis-Oliva agreed to have prepared a revision to the statute inserting a semicolon after "the layout of proposed improvements" and removing the word "and".

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Ms. Wagner made the Board aware that she will be transferring to a different team. Ms. Wagner stated that she would be in attendance at the September meeting. The Board thanked Ms. Wagner for all of the work she has done for the Board and expressed that they would miss her.

PUBLIC COMMENT

There was no public comment.

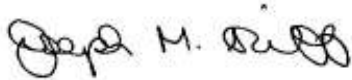
NEXT MEETING

The next meeting of the Board is September 20, 2012 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Mr. Rosenthal made a motion, seconded by Mr. Plummer, to adjourn the meeting at 10:45 a.m. By unanimous vote, the motion carried.

Respectfully Submitted,



Joseph Riff
Administrative Specialist II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.